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7  
8 **BEFORE THE**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 79/16-60

13 **FADI JAMIL JWEINAT dba FIVE STAR**  
14 **SMOG CENTER**  
825 West Ave. L-8, Unit D  
Lancaster, CA 93534

**A C C U S A T I O N**

15 **Automotive Repair Dealer Registration No.**  
16 **ARD 280573**  
**Smog Check Station License No. RC 280573,**

17 **and**

18 **FADI JAMIL JWEINAT**  
43355 Sunny Lane  
19 Lancaster, CA 93536

20 **Smog Check Inspector License No. EO**  
21 **634488**  
22 **Smog Check Repair Technician License No.**  
**EI 634488 (formerly Advanced Emission**  
**Specialist Technician EA 634488)**

23 Respondent.

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1 Complainant alleges:

2 PARTIES

3 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity as  
4 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.

5 2. On or about June 16, 2015, the Bureau of Automotive Repair issued Automotive  
6 Repair Dealer Registration Number ARD 280573 to Fadi Jamil Jweinat, dba Five Star Smog  
7 Center. On March 25, 2016, an Interim Suspension Order was issued against Respondent's  
8 Automotive Repair Dealer Registration pending a decision and order in these proceedings.  
9 Respondent's Automotive Repair Dealer Registration will expire on June 30, 2016,  
10 unless renewed.

11 3. On or about July 1, 2015, the Bureau of Automotive Repair issued Smog Check  
12 Station License Number RC 280573 to Fadi Jamil Jweinat, dba Five Star Smog Center. On  
13 March 25, 2016, an Interim Suspension Order was issued against Respondent's Smog Check  
14 Station License pending a decision and order in these proceedings. Respondent's Smog Check  
15 Station License will expire on June 30, 2016, unless renewed.

16 4. On July 16, 2012, the Bureau of Automotive Repair issued Advanced Emission Specialist  
17 Technician License EA 634488 to Fadi Jamil Jweinat. Pursuant to California Code of  
18 Regulations, title 16, section 3340.28, subdivision (e), upon Respondent's election, said license  
19 was renewed as Smog Check Inspector License EO 634488 and Smog Check Repair Technician  
20 License No. EI 634488, effective October 8, 2014. On March 25, 2016, an Interim Suspension  
21 Order was issued against Respondent's Smog Check Inspector License and Smog Check Repair  
22 Technician License. The licenses will expire on November 30, 2016, unless renewed.

23 **JURISDICTION**

24 5. Business and Professions Code ("BPC") section 9884.13 provides, in pertinent part,  
25 that the expiration of a valid registration shall not deprive the Director of jurisdiction to proceed  
26 with a disciplinary proceeding against an automotive repair dealer or to render a decision  
27 temporarily or permanently invalidating (suspending or revoking) a registration.

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6. Section 9889.1 of the BPC provides, in pertinent part, that the Director may suspend or revoke any license issued under Articles 5 and 6 (commencing with section 9887.1) of the Automotive Repair Act.

7. Section 9889.7 of the BPC provides, in pertinent part, that the expiration or suspension of a license by operation of law or by order or decision of the Director or a court of law, or the voluntary surrender of a license shall not deprive the Director of jurisdiction to proceed with any disciplinary proceedings.

8. Health and Safety Code (“HSC”) section 44002 provides, in pertinent part, that the Director has all the powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle Inspection Program.

9. Section 44072.6 of the HSC provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with disciplinary action.

## STATUTORY PROVISIONS

10. Section 9884.7 of the BPC states, in pertinent part:

“(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.

(1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading . . . .

(4) Any other conduct which constitutes fraud.

• • • •

(6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.”

1        11. Section 9889.9 of the BPC states that “[w]hen any license has been revoked or  
2 suspended following a hearing under the provisions of this article [Article 7 (commencing with  
3 section 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and  
4 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the  
5 director.”

6        12. Section 44012 of the HSC provides, in pertinent part, that tests at smog check stations  
7 shall be performed in accordance with procedures prescribed by the department.

8        13. Section 44015, subdivision (b), of the HSC provides that a certificate of compliance  
9 shall be issued if a vehicle meets the requirements of HSC section 44012.

10       14. Section 44032 of the HSC states, in pertinent part, that: (1) no person may perform  
11 tests or repairs of emission control devices or systems of motor vehicles required by the Motor  
12 Vehicle Inspection Program unless the person performing the test or repair is a licensed qualified  
13 smog check technician; and (2) all tests must be conducted in accordance with section 44012 (i.e.  
14 Motor Vehicle Inspection Program Requirements).

15       15. Section 44059 of the HSC provides:

16       “The willful making of any false statement or entry with regard to a material matter in any  
17 oath, affidavit, certificate of compliance or noncompliance, or application form which is required  
18 by this chapter or Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business  
19 and Professions Code, constitutes perjury and is punishable as provided in the Penal Code.”

20       16. Section 44072.2 of the HSC states, in pertinent part:

21       “The director may suspend, revoke, or take other disciplinary action against a license as  
22 provided in this article if the licensee, or any partner, officer, or director thereof, does any of the  
23 following:

24       “(a) Violates any section of this chapter [the Motor Vehicle Inspection Program  
25 (Health and Saf. Code, § 44000, et seq.)] and the regulations adopted pursuant to it, which  
26 related to the licensed activities . . . .

27       “(c) Violates any of the regulations adopted by the director pursuant to this chapter.

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“(d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.

“(e) Has misrepresented a material fact in obtaining a license.

“(f) Aids or abets unlicensed persons to evade the provisions of this chapter.”

17. Section 44072.8 of the HSC states that when a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the director.

## REGULATORY PROVISIONS

18. California Code of Regulations, title 16, section 3340.15, subdivision (b), states, in pertinent part, that “[a] licensed inspector and/or repair technician shall be present during all hours the station is open for the business.”

19. California Code of Regulations (“CCR”), title 16, section 3340.24, subdivision (c), states:

“The bureau may suspend or revoke the license of or pursue other legal action against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a certificate of noncompliance.”

20. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check station “shall issue a certificate of compliance or noncompliance to the owner or operator of any vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of this article and has all the required emission control equipment and devices installed and functioning correctly.”

21. CCR, title 16, section 3340.41, subdivision (b), provides: “No person shall enter into the emissions inspection system any access or qualification number other than as authorized by the bureau, nor in any way tamper with the emissions inspection system.”

22. CCR, title 16, section 3340.42, sets forth specific emissions test methods and procedures which apply to all vehicles inspected in the State of California.

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1 **COST RECOVERY**

2 23. Section 125.3, subdivision (a), of the BPC provides, in pertinent part, that a Board  
3 “may request the administrative law judge to direct a licentiate found to have committed a  
4 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
5 investigation and enforcement of the case.

6 **DATA ANALYSIS OF CLEAN PLUGGING ACTIVITIES**

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8 24. On March 9, 2015, the Bureau implemented a policy change requiring the use of  
9 an On-Board Diagnostic Inspection System (OIS) in testing of 2000 model year and newer gas  
10 powered vehicles 14,000 Gross Vehicle Weight Rating (GVW) and under, and 1998 and newer  
11 diesel powered vehicles 14,000 GVW and under. The OIS Test Data provides the Bureau with a  
12 wealth of electronic information about the vehicle that is connected to the system, making the  
13 OIS a vital tool in the Bureau’s ongoing efforts to root out fraudulent conduct in the smog  
14 inspection business. For example, among other things, the OIS Bureau Test Data reveals any  
15 differences between the Vehicle Identification Numbers (VIN) entered into the emission  
16 inspection system (i.e., “BAR 97”) by the smog technician at the time of the inspection and the  
17 VIN electronically programmed into the vehicle by the manufacturer (“eVIN”). Such  
18 discrepancies between the VIN entered by the smog technician and the eVIN programmed into  
19 the vehicle by the manufacturer are indicative of illegal “clean plugging”.<sup>1</sup>

20 **Clean Plugging While an Employee of AW Smog Center**

21 25. In May 2015, Bureau representative Jorge Echevarria conducted an investigation  
22 in which he reviewed specific OIS Test Data for inspections performed by Respondent while an  
23 employee of AW Smog Center between April 1, 2015, and April 21, 2015. Representative  
24 Echevarria’s investigation revealed fifty-one (51) instances in which the VIN numbers entered by  
25

26 <sup>1</sup> Clean plugging refers to the use of another vehicle’s properly functioning On Board  
27 Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic  
28 readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that  
are not in smog compliance and/or not present for testing.

Respondent for the vehicles at the time of their inspections did not match the eVINs that were transmitted electronically by the vehicles during the testing process. These documented discrepancies between the VIN numbers entered by Respondent at the time of inspection and the eVINS electronically transmitted from the vehicles during the inspections confirm that the fifty-one (51) vehicles certified by Respondent were fraudulently tested during the smog inspection using the clean plugging method described above. The following chart ("Table 1") illustrates the documented clean plugging activities by Respondent while an employee of AW Smog Center between April 1, 2015, and April 21, 2015.

**Table 1**

Test Date and Time*	Vehicle Certified & License No.	Certificate No.	Details
4/1/2015 0931 - 0943 hours	2005 Chevrolet Silverado 7U05474	YP707037C	eVIN transmitted was for 2000 Ford Expedition; test performed by Respondent.
4/1/2015 0944 - 0947 hours	2007 Nissan 350Z 6KID059	YP707038C	eVIN transmitted was for 2000 Ford Expedition; test performed by Respondent.
4/1/2015 1608 - 1613 hours	2000 Mitsubishi Mirage 6JRK030	YP707042C	eVIN transmitted was for 2007 Toyota Camry; test performed by Respondent.
4/1/2015 1618 - 1622 hours	2008 Mitsubishi Lancer Evolution 6DJR369	YP707044C	eVIN transmitted was for 2007 Toyota Camry; test performed by Respondent.
4/2/2015 0959 - 1002 hours	2007 Chevrolet Trail Blazer 5YQD239	YP707047C	eVIN transmitted was for 2009 Chrysler Town & Country; test performed by Respondent.

1	4/2/2015	2006 Dodge Charger	YP707050C	eVIN transmitted was
2	1129 - 1134 hours	5XGB190		for 2002 Chevrolet
3				Express; test performed
4	4/2/2015	2002 Nissan Altima	YP846503C	eVIN transmitted was
5	1624 - 1630 hours	VIN#		for 2003 Chevrolet
6		1N4AL11DX2C117885		Cavalier; test performed
7	4/3/2015	2007 Chevrolet	YP846509C	eVIN transmitted was
8	1218 - 1222 hours	Colorado		for 2005 Chevrolet
9		8H97818		Silverado; test
10				performed by
11	4/3/2015	2003 Chevrolet Monte	YP846510C	Respondent.
12	1227 - 1230 hours	Carlo		eVIN transmitted was
13		5BAH219		for 2003 Chevrolet
14	4/3/2015	2000 Mitsubishi Galant	YP846511C	Cavalier; test performed
15	1231 - 1233 hours	4VOX754		by Respondent.
16				eVIN transmitted was
17	4/3/2015	2005 Dodge Neon SRT	YP846518C	for 2003 Chevrolet
18	1606 - 1609 hours	7AMM789		Cavalier; test performed
19				by Respondent.
20	4/6/2015	2004 Chevrolet Impala,	YP846529C	eVIN transmitted was
21	1104 - 1109 hours	6GWD181		for 2002 Oldsmobile
22				Silhouette; test
23				performed by
24	4/6/2015	2001 Volkswagen Jetta	YP846532C	Respondent.
25	1453 - 1457 hours	GLS		eVIN transmitted was
26		6GJH992		for 2004 Ford
27				Expedition; test
28				performed by
				Respondent.



1	4/6/2015	2005 Chevrolet Tahoe C1500	YP846533C	eVIN transmitted was for 2004 Ford
2	1458 - 1502 hours	6SNU694		Expedition; test performed by
3				Respondent.
4	4/6/2015	2002 Mercury Mountaineer	YP846536C	eVIN transmitted was for 2005 Dodge
5	1533 - 1537 hours	4XEC994		Magnum; test performed by Respondent.
6				
7	4/6/2015	2003 Ford F150	YP846537C	eVIN transmitted was for 2011 Toyota; test
8	1638 - 1643 hours	8Z59373		performed by Respondent.
9				
10	4/7/2015	2002 Toyota Camry	YP846542C	eVIN transmitted was for 2000 Ford
11	1627 - 1630 hours	4YRV946		Expedition; test performed by
12				Respondent.
13				
14	4/8/2015	2004 Mitsubishi Galant	YP846545C	eVIN transmitted was for 2001 GMC Sierra;
15	1308 - 1312 hours	6RAA160		test performed by Respondent.
16				
17	4/10/2015	2004 Nissan Titan	YP936708C	eVIN transmitted was for 2007 Toyota Camry;
18	1123 - 1126 hours	VIN 1N6AA06A04N587551		test performed by Respondent.
19				
20	4/10/2015	2001 Chevrolet Camaro	YP936711C	eVIN transmitted was for 2005 Ford
21	1553 - 1557 hours	Z28		Econoline; test performed by
22		4RZP891		Respondent.
23				
24	4/10/2015	2006 Mazda	YP936712C	eVIN transmitted was for 2005 Ford
25	1558 - 1602 hours	MazdaSpeed 6		Econoline; test performed by
26		TFT568		Respondent.
27				
28				

1	4/11/2015	2000 Chevrolet Silverado	YP936716C	eVIN transmitted was for 2007 Chevrolet
2	0835 - 0842 hours	6X88873		Colorado; test performed by
3				Respondent.
4	4/11/2015	2008 Mitsubishi Lancer	YP936718C	eVIN transmitted was for 2008 Chevrolet
5	0937 - 0940 hours	AWDFISH		Cobalt; test performed by Respondent.
6				
7	4/11/2015	2006 Acura 3.2TL	YP936719C	eVIN transmitted was for 2008 Chevrolet
8	0940 - 0944 hours	VIN 19UUA66296A042603		Cobalt; test performed by Respondent.
9				
10	4/11/2015	2003 Lincoln Navigator	YP936720C	eVIN transmitted was for 2008 Chevrolet
11	0944 - 0948 hours	4XUG504		Cobalt; test performed by Respondent.
12				
13	4/11/2015	2005 Ford F150	YP936722C	eVIN transmitted was for 2006 Honda Accord;
14	1536 - 1539 hours	8E29943		test performed by Respondent.
15				
16	4/11/2015	2002 Jeep Wrangler,	YP936723C	eVIN transmitted was for 2006 Honda Accord;
17	1540 - 1544 hours	Z985032		test performed by Respondent.
18				
19	4/12/2015	2001 Cadillac Deville	YP936726C	eVIN transmitted was for 2006 Honda Accord;
20	1016 - 1023 hours	6HLW762		test performed by Respondent.
21				
22	4/13/2015	2006 Mazda	YP936728C	eVIN transmitted was for 2004 Dodge
23	1111 - 1115 hours	MazdaSpeed6		Durango; test performed by Respondent.
24		5TUV558		
25	4/13/2015	2007 Chevrolet	YP936729C	eVIN transmitted was for 2004 Dodge
26	1115 - 1119 hours	Silverado C1500		Durango; test performed by Respondent.
27		CKNURHM		
28				

1	4/13/2015	2001 Ford Explorer	YP936731C	eVIN transmitted was
2	1145 - 1148 hours	7B28457		for 2003 Ford Ranger;
3				test performed by
4	4/14/2015	2007 Cadillac C/T	YP936733C	Respondent.
5	0859 - 0904 hours	6JLT753		eVIN transmitted was
6				for 2007 Mitsubishi
7	4/14/2015	2004 Chevrolet Venture	YP936736C	Galant; test performed
8	0937 - 0941 hours	6NQW900		by Respondent.
9				eVIN transmitted was
10	4/14/2015	2003 Toyota RAV4,	YP936737C	for 2004 Ford Taurus;
11	0941 - 0945 hours	5BVC154		test performed by
12				Respondent.
13	4/14/2015	2000 Oldsmobile Alero,	YP936738C	eVIN transmitted was
14	1121 - 1129 hours	4KGM034		for 2006 Dodge
15				Magnum; test performed
16	4/14/2015	2004 Ford F250 Super	YP936739C	by Respondent.
17	1130 - 1134 hours	Duty		eVIN transmitted was
18		VIN		for 2006 Dodge
19		1FTNW2IP34ED06761		Magnum; test performed
20	4/14/2015	2001 Mitsubishi Mirage	YP936740C	by Respondent.
21	1134 - 1139 hours	5AIR337		eVIN transmitted was
22				for 2006 Dodge
23	4/14/2015	2002 Cadillac Escalade	YP936741C	Magnum; test performed
24	1140 - 1144 hours	VIN		by Respondent.
25		1GYEC63T22RI35110		eVIN transmitted was
26	4/14/2015	2006 Pontiac G6	YP936744C	for 2009 Chevrolet
27	1316 - 1324 hours	7CQE238		Tahoe; test performed
28				by Respondent.

1	4/14/2015	2005 Ford F350 Super Duty	YP936745C	eVIN transmitted was for 2005 Kia Sedona;
2	1701 - 1704 hours	7057026		test performed by Respondent.
3				
4	4/16/2015	2005 Infinity G35	YR058859C	eVIN transmitted was for 2007 GMC Acadia;
5	1151 - 1156 hours	7CHW868		test performed by Respondent.
6				
7	4/16/2015	2002 BMW 530i	YR058860C	eVIN transmitted was for 2010 Nissan; test
8	1421 - 1429 hours	7GZF662		performed by Respondent.
9				
10	4/16/2015	2002 Volkswagen Passat	YR058861C	eVIN transmitted was for 2010 Nissan; test
11	1430 - 1434 hours	4WDS179		performed by Respondent.
12				
13	4/18/2015	2002 Honda Civic	YR058871C	eVIN transmitted was for 2012 Honda; test
14	0858 - 0920 hours	6XZW356		performed by Respondent.
15				
16	4/18/2015	2004 Nissan Maxima	YR058875C	eVIN transmitted was for 2011 Toyota; test
17	1111 - 1115 hours	5PVJ047		performed by Respondent.
18				
19	4/20/2015	2004 Dodge Neon	YR058880C	eVIN transmitted was for 2011 Toyota; test
20	0925 - 0928 hours	6NUM600		performed by Respondent.
21				
22	4/20/2015	2001 Chevrolet Cavalier	YR058883C	eVIN transmitted was for 2011 Toyota; test
23	1547 - 1556 hours	4WPP775		performed by Respondent.
24				
25	4/20/2015	2001 Ford F150	YR058884C	eVIN transmitted was for 2011 Toyota; test
26	1557 - 1602 hours	7D62179		performed by Respondent.
27				
28				

4/21/2015 1055 - 1100 hours	2005 BMW 545I 6GJS378	YR058886C	eVIN transmitted was for 2006 Chrysler PT Cruiser; test performed by Respondent.
4/21/2015 1103 - 1107 hours	2006 Subaru Impreessa WRX 5VFJ610	YR058887C	eVIN transmitted was for 2006 Chrysler PT Cruiser; test performed by Respondent.
4/21/2015 1108 - 1112 hours	2002 Honda Civic 4XEW115	YR058888C	eVIN transmitted was for 2006 Chrysler PT Cruiser; test performed by Respondent.

\* Test times are in military time.

**Two (2) Additional Clean Plugs at AW Smog Center**

26. On May 26, 2015, Respondent went to the Bureau's Valencia Field Office to remove his smog inspector access from AW Smog Center in preparation for opening his own smog station (i.e., Five Star Smog Center). At that time, Respondent was presented with two (2) vehicle inspection reports ("VIRs") from recent smog inspections he had performed at AW Smog Center. Respondent confirmed that he had performed the inspections and represented that they had been properly performed. Using OIS test data, however, Bureau program representative Jorge Echevarria was able to confirm that those two inspections were also fraudulent. The following chart ("Table 2") illustrates these two (2) additional documented clean plugging activities by Respondent on May 5, 2015.

**Table 2**

Test Date and Time*	Vehicle Certified & License No.	Certificate No.	Details
05/05/2015 1524-1530 hours	2000 Toyota Avalon, 4KXE654	PS037685	eVIN transmitted was for 2007 Volvo S40; test performed by Respondent.

05/05/2015 1531-1534 hours	2002 Mitsubishi Lancer 7BUV190	PS037686	eVIN transmitted was for 2007 Volvo S40; test performed by Respondent.
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\* Test times are in military time.

**Clean Plugging Activities at Five Star Smog Center**

27. In November 2015, Bureau representative Jorge Echevarria conducted an investigation in which he reviewed specific OIS Test Data for Five Star Smog Center for inspections performed between August 12, 2015, and October 22, 2015. Representative Echevarria's investigation revealed four (4) instances in which the VIN numbers entered by Respondent for the vehicles at the time of the inspections did not match the eVINs that were transmitted electronically by the vehicles during the testing process. These documented discrepancies between the VIN numbers entered by Respondent at the time of inspection and the eVINS electronically transmitted from the vehicles during the inspections confirm that the vehicles receiving smog certificates from Respondent were fraudulently tested during the smog inspection using the clean plugging method. The following chart ("Table 3") illustrates the documented clean plugging activities of Respondent as described above.

**Table 3**

Test Date and Time*	Vehicle Certified & License No.	Certificate No.	Details
08/12/2015 1749-1752 hours	2007 Chrysler PT Cruiser 6CTT411	YT456600C	eVIN transmitted was for 2005 Kia Sedona; test performed by Respondent.
10/20/2015 1252-1257 hours	2009 Nissan Altima 6NJK505	PY557152C	eVIN transmitted was for 2002 Saturn LW200; test performed by Respondent.
10/20/2015 1626-1658 hours	2007 Nissan Versa 6SVZ759	PY557153C	eVIN transmitted was for Respondent's 2012 Honda; test performed by Respondent.

1 2 3	10/22/2015 1446-1451 hours	2009 Chrysler Sebring LX 7GLT133	PY557156C eVIN transmitted was for Respondent's 2012 Honda; test performed by Respondent.
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4 \* Test times are in military time.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Misleading Statements)**

7 28. Respondent Fadi Jamil Jweinat, dba Five Star Smog Center, has subjected his  
8 registration to discipline under BPC section 9884.7, subdivision (a)(1), in that he made statements  
9 which he knew or which by exercise of reasonable care should have known were untrue or  
10 misleading when he issued electronic certificates of compliance for the vehicles set forth in  
11 Tables 1 - 3, above, certifying that those vehicles were in compliance with applicable laws and  
12 regulations when, in fact, those vehicles had not been so inspected. Complainant refers to, and by  
13 this reference incorporates, the allegations contained in paragraphs 24 through 27, inclusive, as  
14 though set forth fully herein.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Fraud)**

17 29. Respondent Fadi Jamil Jweinat, dba Five Star Smog Center, has subjected his  
18 registration to discipline under BPC section 9884.7, subdivision (a)(4), in that he committed acts  
19 which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in  
20 Tables 1 - 3, above, without performing bona fide inspections of the emission control devices and  
21 systems on those vehicles, thereby depriving the People of the State of California of the  
22 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this  
23 reference incorporates, the allegations contained in paragraphs 24 through 27, inclusive, as  
24 though set forth fully herein.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Material Violation of Automotive Repair Act)**

27 30. Respondent Fadi Jamil Jweinat, dba Five Star Smog Center, has subjected his  
28 registration to discipline under BPC section 9884.7, subdivision (a)(6), in that he failed in a

1 “material respect to comply with the provisions of this chapter or regulations adopted pursuant to  
2 it” when he issued electronic certificates of compliance for the vehicles set forth in Tables 1 - 3,  
3 above, without performing bona fide inspections of the emission control devices and systems on  
4 those vehicles, thereby depriving the People of the State of California of the protection afforded  
5 by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference  
6 incorporates, the allegations contained in paragraphs 24 through 27, as though set forth fully  
7 herein.

#### 8 **FOURTH CAUSE FOR DISCIPLINE**

##### 9 **(Violation of the Motor Vehicle Inspection Program)**

10 31. Respondent Fadi Jamil Jweinat, dba Five Star Smog Center, has subjected his station  
11 license to discipline under HSC section 44072.2, subdivision (a), in that, with respect to the  
12 vehicles set forth in Tables 1 - 3, above, Respondent violated the following sections of the HSC:

13 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
14 performed on those vehicles in accordance with procedures prescribed by the department.

15 b. **Section 44015, subdivision (b):** Respondent issued electronic certificates of  
16 compliance without properly testing and inspecting the vehicles to determine if they were in  
17 compliance with section 44012 of the HSC.

18 c. **Section 44059:** Respondent willfully made false entries for the electronic certificates  
19 of compliance by certifying that those vehicles had been inspected as required when, in fact, they  
20 had not.

#### 21 **FIFTH CAUSE FOR DISCIPLINE**

##### 22 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

23 32. Respondent Fadi Jamil Jweinat, dba Five Star Smog Center, has subjected his station  
24 license to discipline under HSC section 44072.2, subdivision (c), in that, with respect to the  
25 vehicles set forth in Tables 1 - 3, above, Respondent violated the following sections of title 16 of  
26 the CCR:

27 ///

28 ///



1       a.    **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued  
2 electronic certificates of compliance without performing bona fide inspections of the emission  
3 control devices and systems on those vehicles as required by HSC section 44012.

4       b.    **Section 3340.35, subdivision (c):** Respondent issued electronic certificates of  
5 compliance even though those vehicles had not been inspected in accordance with section  
6 3340.42 of the HSC.

7       c.    **Section 3340.42:** Respondent failed to conduct the required smog tests and  
8 inspections on those vehicles in accordance with the Bureau's specifications.

9                                   **SIXTH CAUSE FOR DISCIPLINE**

10                                  **(Dishonesty, Fraud or Deceit)**

11       33.   Respondent Fadi Jamil Jweinat, dba Five Star Smog Center, has subjected his station  
12 license to discipline under HSC section 44072.2, subdivision (d), in that, with respect to the  
13 vehicles set forth in Tables 1 - 3, above, Respondent committed acts involving dishonesty, fraud  
14 or deceit whereby another was injured by issuing electronic certificates of compliance for those  
15 vehicles without performing bona fide inspections of the emission control devices and systems on  
16 those vehicles, thereby depriving the People of the State of California of the protection afforded  
17 by the Motor Vehicle Inspection Program.

18                                  **SEVENTH CAUSE FOR DISCIPLINE**

19                                  **(Violations of the Motor Vehicle Inspection Program)**

20       34.   Respondent Fadi Jamil Jweinat has subjected his smog check inspector license and  
21 his smog check repair technician license to discipline under HSC section 44072.2, subdivision  
22 (a), in that he violated the following sections of the HSC with respect to the vehicles set forth in  
23 Tables 1 -3, above:

24       a.    **Section 44012:** Respondent failed to ensure that the emission control tests were  
25 performed on those vehicles in accordance with procedures prescribed by the department.

26       b.    **Section 44032:** Respondent failed to perform tests of the emission control devices  
27 and systems on those vehicles in accordance with section 44012 of the HSC, in that the vehicles  
28 had been clean plugged.

1 c. **Section 44059:** Respondent willfully made false entries for the electronic certificates  
2 of compliance by certifying that those vehicles had been inspected as required when, in fact, they  
3 had not.

4 **EIGHTH CAUSE FOR DISCIPLINE**

5 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

6 35. Respondent Fadi Jamil Jweinat has subjected his smog check inspector license and  
7 his smog check repair technician license to discipline under HSC section 44072.2, subdivision  
8 (c), in that he violated the following sections of the CCR, title 16, with respect to the vehicles set  
9 forth in Tables 1 -3, above:

10 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued  
11 electronic certificates of compliance without performing bona fide inspections of the emission  
12 control devices and systems on those vehicles as required by HSC section 44012.

13 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test those  
14 vehicles in accordance with HSC section 44012.

15 c. **Section 3340.41, subdivision (c):** Respondent entered false information into the EIS  
16 for the electronic certificates of compliance by entering vehicle emission control information for  
17 vehicles other than the vehicles being certified.

18 d. **Section 3340.42:** Respondent failed to conduct the required smog tests and  
19 inspections on those vehicles in accordance with the Bureau's specifications.

20 **NINTH CAUSE FOR DISCIPLINE**

21 **(Dishonesty, Fraud or Deceit)**

22 36. Respondent Fadi Jamil Jweinat has subjected his smog check inspector license and  
23 his smog check repair technician license to discipline under HSC section 44072.2, subdivision  
24 (d), in that he committed acts involving dishonesty, fraud or deceit whereby another was injured  
25 by issuing electronic certificates of compliance for the vehicles set forth in Tables 1 -3, above,  
26 without performing bona fide inspections of the emission control devices and systems on those  
27 vehicles, thereby depriving the People of the State of California of the protection afforded by the  
28 Motor Vehicle Inspection Program.

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 280573, issued to Fadi Jamil Jweinat, dba Five Star Smog Center;
2. Revoking or suspending Smog Check Station License Number RC 280573, issued to Fadi Jamil Jweinat, dba Five Star Smog Center;
3. Revoking or suspending Smog Check Inspector License No. EO 634488, issued to Fadi Jamil Jweinat;
4. Revoking or suspending Smog Check Repair Technician License No. EI 634488, issued to Fadi Jamil Jweinat;
5. Revoking or suspending any and all licenses issued under Articles 5 and 6 of the Automotive Repair Act in the name of Fadi Jamil Jweinat pursuant to section 9889.9 of the Business and Professions Code;
6. Revoking or suspending any and all licenses issued under the Motor Vehicle Inspection Program in the name of Fadi Jamil Jweinat pursuant to section 44072.8 of the Health and Safety Code;
7. Ordering Fadi Jamil Jweinat to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
8. Taking such other and further action as deemed necessary and proper.

DATED:

April 6, 2016



PATRICK DORAIS  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*

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